

Patent
Serial No. 09/876,690

Appeal Brief in Reply to Final Office Action of November 14, 2007,
and Advisory Action of January 25, 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	Atty. Docket: US 010390
BRIAN COLLAMORE ET AL.	Group Art Unit: 3626
Serial No. 09/876,690	Examiner: TOMASZEWSKI, M.
Filed: JUNE 7, 2001	Confirmation No. 8205
Title: SYSTEM FOR ENABLING THE RECONSIDERATION OF A MEDICAL STUDY BASED ON THE ARRIVAL OF NEW INFORMATION	

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APPEAL BRIEF

Sir:

Appellants herewith respectfully present a Brief on Appeal as follows, having filed a Notice of Appeal on February 14, 2008:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellants and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1-4, 6-10, 12-16, and 18-21 are pending in this application where claims 5, 11, 17 and 22-23 are canceled. Claims 1-4, 6-10, 12-16, and 18-21 are rejected in the Final Office Action mailed November 14, 2007. This rejection was upheld, in an Advisory Action that issued January 25, 2008. Claims 1-4, 6-10, 12-16, and 18-21 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellants filed on December 20, 2007 an after final amendment in response to a Final Office Action dated November 14, 2007. The after final amendment did not include any amendments. This Appeal Brief is in response to the Final Office Action mailed November 14, 2007, that finally rejected claims 1-4, 6-10, 12-16, and 18-21, which remain finally rejected in the Advisory Action mailed on January 25, 2008.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, is directed to a medical information management system 250 shown in FIG 2 and described on page 9, lines 1-22 of the specification. As shown in FIG 1 and described on page 7, line 17, to page 8, line 21, the information management system comprises an information acquisition device 102, 104. The information management system further comprises a computer 200 coupled to the information acquisition device, and a memory element 206 associated with the computer, where the memory element stores the information and associates the information with the study, as shown in FIG 2 and described on page 9, lines 7-22.

As shown in blocks 408, 409 and 411 of FIG 4, and described on page 19, lines 1-14, the computer includes logic for receiving information from the information acquisition device, for setting a reconsider flag to indicate that new information is available for informing a user of arrival of the new information associated to a study to which the new information corresponds if the study has

been reviewed, and for not setting the reconsider flag if the study has not been reviewed even when the new information is available.

As shown in blocks 411 and 412 of FIG 4, and described on page 19, line 23, to page 20, line 11, the computer further includes logic for notifying the user if the user is currently reviewing the study, and for not notifying the user if the user is not currently reviewing the study.

The present invention, for example, as recited in independent claim 7, is directed to a method for adding new information to a study. As shown in FIG 4 and described on page 19, line 1, to page 20, line 11, the method comprises acquiring information using an information acquisition device; forwarding the information to a computer; storing the information; associating the information with the study; transferring the new information to the computer; associating the new information with the study.

As shown in blocks 408, 409 and 411 of FIG 4, the method further comprises setting a reconsider flag to indicate in the study that the new information is available if the study has been reviewed; not setting the reconsider flag if the study has not been

reviewed even when the new information is available.

As shown in blocks 411 and 412 of FIG 4, the method further comprises notifying a user if the user is currently reviewing the study; and not notifying the user if the user is not currently reviewing the study.

The present invention, for example, as recited in independent claim 13, is directed to a computer readable medium having a program for adding new information to a study, the program comprising logic for acquiring information using an information acquisition device; forwarding the information to a computer; storing the information; associating the information with the study; transferring the new information to the computer; and associating the new information with the study, as shown in FIG 4 and described on page 19, line 1, to page 20, line 11.

As shown in blocks 408, 409 and 411 of FIG 4, the logic is further configured for setting a reconsider flag to indicate in the study that the new information is available if the study has been reviewed; and not setting the reconsider flag if the study has not been reviewed even when the new information is available. In

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addition, as shown in blocks 411 and 412 of FIG 4, the logic is configured for notifying a user if the user is currently reviewing the study; and not notifying the user if the user is not currently reviewing the study.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 7 and 13 of U.S. Patent Application Serial No. 09/876,690 are unpatentable under 35 U.S.C. §103(a) over U.S. Patent Application Publication No. 2002/0087503 (Judd) in view of U.S. Patent No. 5,832,450 (Myers), U.S. Patent No. 6,192,112 (Rapaport) and Official Notice.

ARGUMENT

Appellants respectfully request the Board to address the patentability of independent claims 1, 7 and 13, and further claims 2-4, 6, 8-10, 12, 14-16 and 18-21 as depending from independent claims 17 and 21, based on the requirements of independent claims 1, 7 and 13. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of claims 2-4, 6, 8-10, 12, 14-16 and 18-21 at a later date should the separately patentable subject matter of claims 2-4, 6, 8-10, 12, 14-16 and 18-21 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claims 1, 7 and 13 is not intended as a waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

Independent claims 1, 7 and 13 are said to be unpatentable over Judd, Myers, Rapaport and Official Notice.

In the Advisory Action, paragraphs [0065]-[0066] and [0075]-[0078] of Judd are cited to allegedly show notifying a user of new information and storing the information. Assuming, arguendo, that the Judd discloses such feature, nevertheless Judd is completely silent about using any flags, let alone setting or not setting a flag under the specific conditions recited in independent claims 1, 7 and 13.

Official Notice related to Microsoft Outlook™ is cited in an attempt to remedy the deficiencies in Judd. Appellants strongly disagree and request that the Examiner provide prior art references or particular documents related to Microsoft Outlook™ clearly illustrating that it is well known to set or not set a flag and provide or not provide notification under the specific conditions recited in independent claims 1, 7 and 13.

Appellants do not dispute that flags and conditional flags are well known. However, independent claims 1, 7 and 13 do not merely recite general conditional flags, but rather recite specific and

particular conditions for setting and not setting flags and for notifying or not notifying a user. The particular conditions for flag setting and notification recited in independent claims 1, 7 and 13 are neither disclosed/suggested in Microsoft Outlook™ nor considered to be common knowledge. If it is common knowledge, then the Examiner should have no trouble finding a prior art reference showing the same; yet no such prior art reference is provided. Appellants reiterate the request that the Examiner either withdraw the Official Notice or provide such a prior art reference disclosing or suggesting the particular conditions for flag setting and notification recited in independent claims 1, 7 and 13.

While Microsoft Outlook™ may disclose flagging or conditional flags, it is respectfully submitted that Microsoft Outlook™ alone or combined with Judd does not teach or suggest the present invention as recited in independent claim 1, and similarly recited in independent claims 7 and 13 which, amongst other patentable elements, requires (illustrative emphasis provided):

for setting a reconsider flag to indicate that new information is available for informing a user of arrival of the new information associated to a study to which the new information

corresponds if the study has been reviewed, and
for not setting the reconsider flag if the study
has not been reviewed even when the new
information is available, for notifying the user
if the user is currently reviewing the study, and
for not notifying the user if the user is not
currently reviewing the study.

The alerts disclosed in Rapaport and use of notifications disclosed in Myers do not remedy the deficiencies in Judd and Official Notice.

Accordingly, it is respectfully submitted that independent claims 1, 7 and 13 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-4, 6, 8-10, 12, 14-16 and 18-21 should also be allowed based at least on their dependence from independent claims 1, 7 and 13.

In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position,

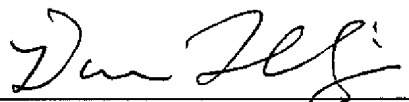
should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-4, 6-10, 12-16, and 18-21 are patentable over Judd, Myers, Rapaport and Official Notice.

In view of the above, it is respectfully submitted that the Examiner's rejection of claims 1-4, 6-10, 12-16, and 18-21 should be reversed.

Respectfully submitted,

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CLAIMS APPENDIX

1. (Previously Presented) A medical information management system, comprising:

an information acquisition device;

a computer coupled to the information acquisition device, the computer including logic for receiving information from the information acquisition device, for setting a reconsider flag to indicate that new information is available for informing a user of arrival of the new information associated to a study to which the new information corresponds if the study has been reviewed, for not setting the reconsider flag if the study has not been reviewed even when the new information is available, for notifying the user if the user is currently reviewing the study, and for not notifying the user if the user is not currently reviewing the study; and

a memory element associated with the computer, where the memory element stores the information and associates the information with the study.

2.(Original) The medical information management system of claim 1, wherein the information includes at least one of ultrasound image information, medical image information, patient measurements, calculations, findings, comments, waveforms, chart records, audio recordings, Doppler audio, Doppler flow sounds or heart sounds, Doppler audio, and a medical study report.

3.(Previously Presented) The medical information management system of claim 2, further comprising a database, where the database includes a plurality of flags, and the reconsider flag is used to indicate to said user of the medical information management system that the new information has been associated with the study.

4.(Previously Presented) The medical information management system of claim 3, further comprising a client application, the client application further comprising a user interface configured to present to the user of the medical information management system an indication that the new information has been associated with the study.

Claim 5 (Canceled)

6. (Previously Presented) The medical information management system of claim 4, where the client application informs the user of the arrival of further new information pertaining to a further study that the user is not reviewing.

7. (Previously Presented) A method for adding new information to a study, the method comprising the acts of:

- acquiring information using an information acquisition device;
- forwarding the information to a computer;
- storing the information;
- associating the information with the study;
- transferring the new information to the computer;
- associating the new information with the study;
- setting a reconsider flag to indicate in the study that the new information is available if the study has been reviewed;
- not setting the reconsider flag if the study has not been

reviewed even when the new information is available;

notifying a user if the user is currently reviewing the study;
and

not notifying the user if the user is not currently reviewing
the study.

8.(Original) The method of claim 7, wherein the information includes at least one of ultrasound image information, medical image information, patient measurements, findings, calculations, comments, waveforms, chart records, audio recordings, Doppler audio, Doppler flow sounds or heart sounds, Doppler audio, and a medical study report.

9.(Previously Presented) The method of claim 7, further comprising the act of using a database indicator to indicate to the user that the new information has been associated with the study.

10.(Previously Presented) The method of claim 7, further comprising the act of presenting to the user an indication that the

new information has been associated with the study.

Claim 11 (Canceled)

12. (Previously Presented) The method of claim 7, further comprising the act of informing the user of the arrival of further new information pertaining to a further study that the user is not reviewing.

13. (Previously Presented) A computer readable medium having a program for adding new information to a study, the program comprising logic for performing the acts of:

- acquiring information using an information acquisition device;
- forwarding the information to a computer;
- storing the information;
- associating the information with the study;
- transferring the new information to the computer;
- associating the new information with the study;
- setting a reconsider flag to indicate in the study that the

new information is available if the study has been reviewed;

not setting the reconsider flag if the study has not been
reviewed even when the new information is available;

notifying a user if the user is currently reviewing the study;
and

not notifying the user if the user is not currently reviewing
the study.

14.(Original) The program of claim 13, wherein the
information includes at least one of ultrasound image information,
medical image information, patient measurements, findings,
calculations, comments, waveforms, chart records, audio recordings,
Doppler audio, Doppler flow sounds or heart sounds, Doppler audio,
and a medical study report.

15.(Previously Presented) The program of claim 13, further
comprising logic for using a database indicator to indicate to the
user that the new information has been associated with the study.

16. (Previously Presented) The program of claim 13, further comprising logic for presenting to the user an indication that the new information has been associated with the study.

Claim 17 (Canceled)

18. (Previously Presented) The program of claim 13, further comprising logic for informing the user of the arrival of further new information pertaining to a further study that the user is not reviewing.

19. (Previously Presented) The medical information management system of claim 1, wherein the computer is configured to inform the user of the arrival of the new information in response to addition of the new information to the study.

20. (Previously Presented) The method of claim 7, wherein the informing act is performed in response to addition of the new information to the study.

21. (Previously Presented) The program of claim 13, wherein the informing act is performed in response to addition of the new information to the study.

Claims 22-23 (Canceled)

EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None